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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

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9 Steven Wayne Divine,

10 Petitioner,

11 vs.

12 Richardo E. Chavez,

13 Respondent.

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) No. CV 08-1598-PHX-JAT

) **ORDER**

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16 Pending before this Court is Petitioner's Amended Petition for Writ of Habeas Corpus

17 filed pursuant to 28 U.S.C. § 2241. On September 30, 2009, the Magistrate Judge to whom

18 this case was assigned filed a Report and Recommendation recommending that this Court

19 transfer the remaining claims in this case to the United States District Court for the District

20 of Oregon. Neither party filed objections to this recommendation.

21 This Court "may accept, reject, or modify, in whole or in part, the findings or

22 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). It is "clear that the

23 district judge must review the magistrate judge's findings and recommendations *de novo* if

24 *objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121

25 (9th Cir. 2003) (*en banc*) (emphasis in original); *Schmidt v. Johnstone*, 263 F.Supp.2d 1219,

26 1226 (D.Ariz. 2003) ("Following *Reyna-Tapia*, this Court concludes that *de novo* review of

27 factual and legal issues is required if objections are made, 'but not otherwise.'"). District

28 courts are not required to conduct "any review at all . . . of any issue that is not the subject

1 of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (emphasis added); *see also* 28
2 U.S.C. § 636(b)(1) (“the court shall make a *de novo* determination of those portions of the
3 [report and recommendation] to which objection is made.”).

4 Because neither party has filed an objection,

5 **IT IS ORDERED** that the Report and Recommendation (Doc. #95) is accepted and
6 adopted;

7 **IT IS FURTHER ORDERED** that Petitioner’s motion to withdraw ground one (Doc.
8 #86) from the amended petition filed September 25, 2008, is granted; ground one is
9 dismissed without prejudice; and

10 **IT IS FURTHER ORDERED** that the remaining claims in the amended petition
11 filed September 25, 2008, are transferred to the United States District Court for the District
12 of Oregon.

13 **IT IS FINALLY ORDERED** that the motion for a temporary restraining order
14 barring the collection of restitution (Doc. #93) is denied without prejudice to refiling the
15 same motion before the Oregon District Court.

16 DATED this 4th day of November, 2009.

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20 James A. Teilborg
21 United States District Judge
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